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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,580	05/14/2004	Paul K. MEEKER	43064-0030	3579

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BUCKINGHAM, DOOLITTLE & BURROUGHS, LLP  
3800 EMBASSY PARKWAY  
SUITE 300  
AKRON, OH 44333

EXAMINER

EDELL, JOSEPH F

ART UNIT PAPER NUMBER

3636

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/709,580

Applicant(s)

MEEKER ET AL.

Examiner

Joseph F. Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-27 and 29-40 is/are pending in the application.
- 4a) Of the above claim(s) 33-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-27, 29-32 and 38-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant states that claims 33-37 were amended to render the claims consistent with the elected invention. However, the amendments to claims 33-37 were insufficient to render the claims consistent with the elected invention. See the reasons why the inventions are distinct in Office Action mailed 26 June 2006. Therefore, claims 33-37 remain withdrawn.

### ***Claim Objections***

2. Claim 39 is objected to because of the following informalities: "its retracted and extended positions" (line 17) should read --a retracted position and an extended position--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 7, 8, 10-20, 22-27, 29, 30, 32, and 38-40 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,854,639 to Burleigh et al.

Burleigh et al. disclose a car seat that includes all the limitations recited in claims 1-5, 7, 8, 10-20, 22-27, 29, 30, 32, and 38-40. Burleigh et al. show a seat having a seat member 72 (see Fig. 5), a back member 78 connected to the seat member, a fixed component (see Diagram A below) of the back member including a flat middle section, a pair of raised contoured sides 80,82 (see Fig. 6), and a contoured surface in cross-section, a movable component 90 of the back member including raised contoured sides 92,94, capable of movement from a retracted position to an extended position, and overlapping the fixed component, an upper headrest area of the movable component (see Diagram A) with a flat middle section, a pair of forward extending wings, and an upper headrest width, and an opposed lower area (see Diagram A) separated from the upper headrest area by a pair of fixed size laterally and inwardly-projecting indentations 126,128 (see Fig. 8 and Diagram A) to accommodate a shoulder belt, fixedly connected to the upper headrest area, including a surface and a contour in cross-section mating the contoured surface of the fixed component, and a lower area width wherein the upper headrest width and the lower area width being essentially the same.

Burleigh et al. show a back member wherein the upper headrest area being in invariant fixed relationship to the lower area and separated by the indentations (see Diagram A), the movable component is attached in front of the fixed component, the fixed and movable components being in overlapping essentially gapless and contacting relationship with respect to each other with sliding movement between the components at both the retracted and extended positions (sliding movement of shoe parts 118 along tracks 96,98 - see Fig. 6 - allowing for the gapless relationship), the sliding movement

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between the components does not increase a size of the indentations between the upper headrest area and lower area, and means for selectively positioning and retaining the movable component relative to the fixed components (the shoe parts and tracks are functionally equivalent to the positioning and retaining structure described in the instant application) that permits incremental discrete movement or infinitely variable movement and is a pair of outwardly biased shafts 118 capable of locking, and telescoping movement of the movable component relative to the fixed component which is fixed by a length of longitudinal channels 96,98 in the fixed component.

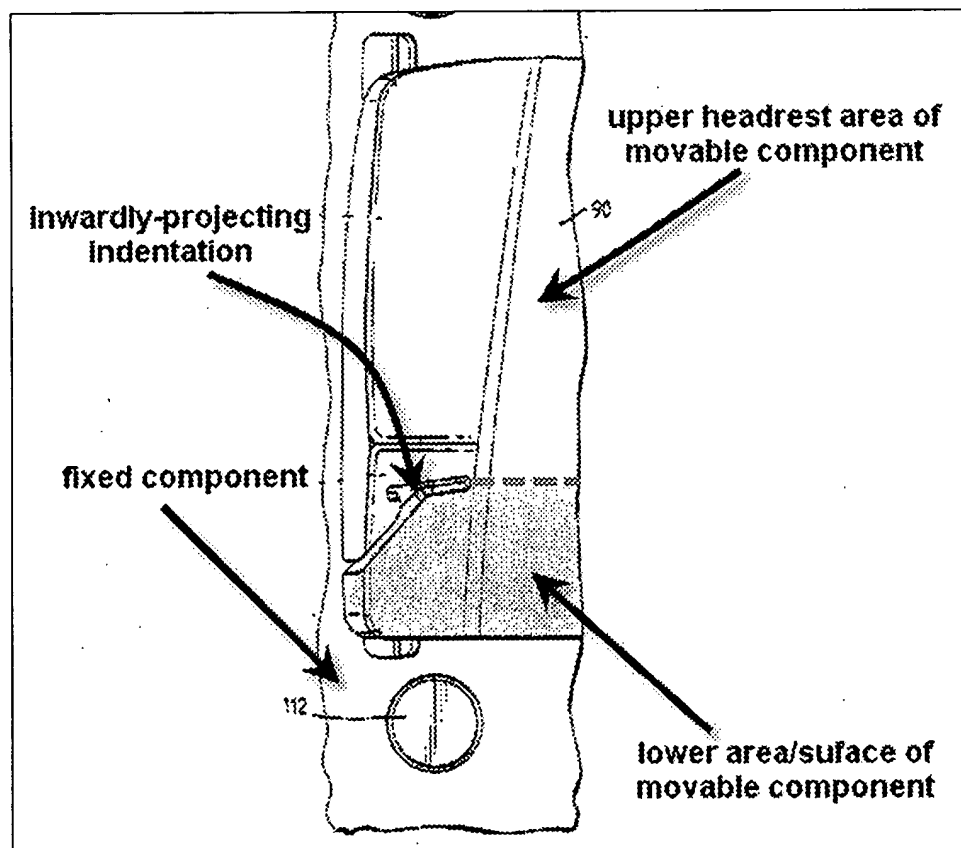


Diagram A - Annotated Figure 8 of Burleigh et al.

Claims 8, 20, and 30 recite "locking means," which fails to invoke 35 U.S.C. 112, sixth paragraph, because this recitation does not meet the three prong analysis set forth in MPEP § 2181.

With respect to claim 11 and 13-15, movement of the movable component 90 of Burleigh et al. relative to the fixed component 78 provides contiguous essentially parallel surface support for an occupant's back without increasing the size of the indentations, the inner contour of the movable component mates and nests with an outer contour of the fixed component, and an outer contour of the movable component has a pair of raised surfaces for side support of the occupant.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9, 21, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burleigh et al. in view of U.S. Patent No. 6,135,553 to Lovie et al.

Burleigh et al. disclose a car seat that is basically the same as that recited in claims 9, 21, and 31 except that the lock lacks mating teeth and grooves, as recited in the claims. Lovie et al. show a car seat similar to that of Burleigh et al. wherein car seat has a fixed component 16 (see Fig. 2), a movable component 32,34 capable of

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movement from a retracted position to an extended position, and a locking mechanism with a track 44 (see Fig. 3) passing through the fixed component and including mating teeth 50,52 and grooves 54,56. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the car seat of Burleigh et al. such that the shoe parts and tracks configuration includes mating teeth and grooves, such as the car seat disclosed in Lovie et al. One would have been motivated to make such a modification in view of the suggestion in Lovie et al. that the mating teeth and grooves of the locking mechanism provides greater control of the height adjustment of the movable component and prevents unwanted movement of the movable component.

### ***Response to Arguments***

7. Applicant's arguments filed 03 April 2006 have been fully considered but they are not persuasive. With respect to the rejection of 1-5, 7, 8, 10-20, 22-27, 29, 30, and 32 under 35 U.S.C. 102(b) as being anticipated by Burleigh, Applicant simply argues that Burleigh fails to teach "laterally and inwardly-projecting indentations." However, the claims do not recite this limitation. Therefore, Examiner presumes that Applicant agrees that Burleigh teaches all the limitations recited in claims 1-5, 7, 8, 10-20, 22-27, 29, 30, 32. Only new claims 38-40 recite the limitation of "laterally and inwardly-projecting indentations." Examiner reasonably interprets the limitation of "laterally" as being of or relating to the side, as defined by *Merriam-Webster's Collegiate Dictionary, Tenth*

*Edition.* As the indentations (see Diagram A above) clearly are of the side of the upper headrest area, Burleigh teaches this limitation recited in claims 38-40.

In addition, Applicant asserts that the indentation of the instant application provides a seat belt path that does not have to twist. However, this teaching is not recited in the specification or suggested by the drawings of instant application.

With respect to the rejection of claim 9, 21, and 31, Applicant argues that the combination would not teach a movable back support component which moves in conjunction with the headrest. However, this is unpersuasive for two reasons. No claim actually recites a movable back support component which moves in conjunction with the headrest. Secondly, Burleigh teaches a movable component having an upper headrest area moving in conjunction with the lower area.

With respect to the rejection of claim 9, 21, and 31, Applicant argues that the combination would not teach components not providing maximum spinal support for the occupant. However, this limitation is not recited in the claims.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within



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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joe Edell  
November 21, 2006



Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600